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SENATE BILL 501

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO LICENSING; ENACTING THE IGNITION INTERLOCK
LICENSING ACT; ALLOWING INDIVIDUALS WHO HAVE A REVOKED LICENSE
FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR
DRUGS TO APPLY FOR AN IGNITION INTERLOCK LICENSE; PROVIDING
PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Motor Vehicle Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE. -- Sections 1 through 4 of this
act may be cited as the "Ignition Interlock Licensing Act". "

Section 2. A new section of the Motor Vehicle Code is
enacted to read:

"[NEW MATERIAL] DEFINITIONS. -- As used in the Ignition
Interlock Licensing Act:

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1 A. "ignition interlock device" means a regularly
2 calibrated device, approved by the traffic safety bureau, that
3 regulates the operation of a motor vehicle by measuring an
4 operator's blood alcohol level before allowing the operator to
5 start the vehicle and that periodically tests the operator's
6 blood alcohol level while he operates the vehicle;

7 B. "ignition interlock license" means a driver's
8 license issued to a person by the division that allows that
9 person to operate a motor vehicle with an ignition interlock
10 device after that person's instructor's permit, driver's
11 license or provisional license has been revoked. The division
12 shall clearly mark an ignition interlock license with a letter
13 symbol "I" to distinguish it from other driver's licenses; and

14 C. "revoked" means having an instructor's permit,
15 driver's license or provisional license revoked for driving
16 while under the influence of intoxicating liquor or drugs,
17 pursuant to the provisions of Section 66-8-102 NMSA 1978 or the
18 Implied Consent Act. "

19 Section 3. A new section of the Motor Vehicle Code is
20 enacted to read:

21 "NEW MATERIAL IGNITION INTERLOCK LICENSE--REQUIREMENTS--
22 EXCLUSIONS.--

23 A. A person whose instructor's permit, driver's
24 license or provisional license has been revoked may apply for
25 an ignition interlock license from the division.

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1 B. An applicant for an ignition interlock license
2 shall:

3 (1) provide proof of installation of the
4 ignition interlock device by an authorized ignition interlock
5 technician on any vehicle the applicant drives; and

6 (2) sign an affidavit acknowledging that:

7 (a) operation by the applicant of any
8 vehicle that is not equipped with an ignition interlock device
9 is subject to penalties for driving with a revoked license;

10 (b) the applicant shall maintain the
11 ignition interlock device and keep up-to-date records in the
12 motor vehicle showing monthly service and calibrations and be
13 able to provide the records upon request; and

14 (c) the applicant has notified all
15 members of his household that an ignition interlock device will
16 be installed on all motor vehicles driven by the applicant.

17 C. A person who has been convicted of homicide by
18 vehicle or great bodily injury by vehicle while under the
19 influence of intoxicating liquor or drugs, as provided in
20 Section 66-8-101 NMSA 1978, shall not be issued an ignition
21 interlock license. "

22 Section 4. A new section of the Motor Vehicle Motor Code
23 is enacted to read:

24 " [NEW MATERIAL] PENALTIES. -- A person who is issued an
25 ignition interlock license and operates a vehicle that is not

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1 equipped with an ignition interlock device in violation of the
2 Ignition Interlock Licensing Act shall be subject to the
3 penalties provided in Section 66-5-39 NMSA 1978. "

4 Section 5. Section 32A-2-19 NMSA 1978 (being Laws 1993,
5 Chapter 77, Section 48, as amended) is amended to read:

6 "32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT
7 OFFENDER. --

8 A. At the conclusion of the dispositional hearing,
9 the court may make and include in the dispositional judgment
10 its findings on the following:

11 (1) the interaction and interrelationship of
12 the child with the child's parents, siblings and any other
13 person who may significantly affect the child's best interests;

14 (2) the child's adjustment to his home, school
15 and community;

16 (3) the mental and physical health of all
17 individuals involved;

18 (4) the wishes of the child as to his
19 custodian;

20 (5) the wishes of the child's parents as to
21 the child's custody;

22 (6) whether there exists a relative of the
23 child or other individual who, after study by the department,
24 is found to be qualified to receive and care for the child;

25 (7) the availability of services recommended

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1 in the predisposition report; and

2 (8) the ability of the parents to care for the
3 child in the home.

4 B. If a child is found to be delinquent, the court
5 may impose a fine not to exceed the fine that could be imposed
6 if the child were an adult and may enter its judgment making
7 any of the following dispositions for the supervision, care and
8 rehabilitation of the child:

9 (1) any disposition that is authorized for the
10 disposition of a neglected or abused child, in accordance with
11 the Abuse and Neglect Act;

12 (2) transfer legal custody to the department,
13 an agency responsible for the care and rehabilitation of
14 delinquent children, which shall receive the child at a
15 facility designated by the secretary of the department as a
16 juvenile reception facility. The department shall thereafter
17 determine the appropriate placement, supervision and
18 rehabilitation program for the child. The judge may include
19 recommendations for placement of the child. Commitments are
20 subject to limitations and modifications set forth in Section
21 32A-2-23 NMSA 1978. The types of commitments include:

22 (a) a short-term commitment of one year;
23 (b) a long-term commitment for no more
24 than two years in a long-term facility for the care and
25 rehabilitation of adjudicated delinquent children;

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1 (c) if the child is a delinquent
2 offender who committed one of the criminal offenses set forth
3 in Subsection I of Section 32A-2-3 NMSA 1978, a commitment to
4 age twenty-one, unless sooner discharged; or

5 (d) if the child is a youthful offender,
6 a commitment to age twenty-one, unless sooner discharged;

7 (3) place the child on probation under those
8 conditions and limitations as the court may prescribe;

9 (4) place the child in a local detention
10 facility that has been certified in accordance with the
11 provisions of Section 32A-2-4 NMSA 1978 for a period not to
12 exceed fifteen days within a three hundred sixty-five day time
13 period;

14 (5) if a child is found to be delinquent
15 solely on the basis of Paragraph (3) of Subsection A of Section
16 32A-2-3 NMSA 1978, the court shall only enter a judgment
17 placing the child on probation or ordering restitution or
18 imposing a fine not to exceed the fine that could be imposed if
19 the child were an adult or any combination of these
20 dispositions; or

21 (6) if a child is found to be delinquent
22 solely on the basis of Paragraph (2), (4) or (5) of Subsection
23 A of Section 32A-2-3 NMSA 1978, the court may make any
24 disposition provided by this section and may enter its judgment
25 placing the child on probation and, as a condition of

1 probation, transfer custody of the child to the department for
2 a period not to exceed six months without further order of the
3 court; provided that this transfer shall not be made unless the
4 court first determines that the department is able to provide
5 or contract for adequate and appropriate treatment for the
6 child and that the treatment is likely to be beneficial.

7 C. When the child is an Indian child, the Indian
8 child's cultural needs shall be considered in the dispositional
9 judgment and reasonable access to cultural practices and
10 traditional treatment shall be provided.

11 D. No child found to be delinquent shall be
12 committed or transferred to a penal institution or other
13 facility used for the execution of sentences of persons
14 convicted of crimes.

15 E. Whenever the court vests legal custody in an
16 agency, institution or department, it shall transmit with the
17 dispositional judgment copies of the clinical reports,
18 predisposition study and report and other information it has
19 pertinent to the care and treatment of the child.

20 F. Prior to any child being placed in the custody
21 of the department, the department shall be provided with
22 reasonable oral or written notification and an opportunity to
23 be heard.

24 G. In addition to any other disposition pursuant to
25 this section or any other penalty provided by law, if a child

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1 fifteen years of age or older is adjudicated delinquent on the
2 basis of Paragraph (2), (4) or (5) of Subsection A of Section
3 32A-2-3 NMSA 1978, the child's driving privileges may be denied
4 or the child's driver's license may be revoked for a period of
5 ninety days. For a second or a subsequent adjudication, the
6 child's driving privileges may be denied or the child's
7 driver's license revoked for a period of one year. Within
8 twenty-four hours of the dispositional judgment, the court may
9 send to the motor vehicle division of the taxation and revenue
10 department the order adjudicating delinquency. Upon receipt of
11 an order from the court adjudicating delinquency, the director
12 of the motor vehicle division of the taxation and revenue
13 department may revoke or deny the delinquent's driver's license
14 or driving privileges. Nothing in this section may prohibit
15 the delinquent from applying for a limited driving privilege
16 pursuant to Section 66-5-35 NMSA 1978 or an ignition interlock
17 license pursuant to the Ignition Interlock Licensing Act, and
18 nothing in this section precludes the delinquent's
19 participation in an appropriate educational, counseling or
20 rehabilitation program.

21 H. In addition to any other disposition pursuant to
22 this section or any other penalty provided by law, when a child
23 is adjudicated delinquent on the basis of Paragraph (7) of
24 Subsection A of Section 32A-2-3 NMSA 1978, the child shall
25 perform the mandatory community service set forth in Section

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1 30-15-1.1 NMSA 1978. When a child fails to completely perform
2 the mandatory community service, the name and address of the
3 child's parent or legal guardian shall be published in a
4 newspaper of general circulation, accompanied by a notice that
5 he is the parent or legal guardian of a child adjudicated
6 delinquent for committing graffiti."

7 Section 6. Section 32A-2-22 NMSA 1978 (being Laws 1993,
8 Chapter 77, Section 51, as amended) is amended to read:

9 "32A-2-22. CONTINUANCE UNDER SUPERVISION WITHOUT
10 JUDGMENT-- CONSENT DECREE-- DISPOSITION. --

11 A. At any time after the filing of a delinquency
12 petition and before the entry of a judgment, the court may, on
13 motion of the children's court attorney or that of counsel for
14 the child, suspend the proceedings and continue the child under
15 supervision in the child's own home under terms and conditions
16 negotiated with probation services and agreed to by all the
17 parties affected. The court's order continuing the child under
18 supervision under this section shall be known as a "consent
19 decree".

20 B. If the child objects to a consent decree, the
21 court shall proceed to findings, adjudication and disposition
22 of the case. If the child does not object but an objection is
23 made by the children's court attorney after consultation with
24 probation services, the court shall, after considering the
25 objections and the reasons given, proceed to determine whether

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1 it is appropriate to enter a consent decree and may, in its
2 discretion, enter the consent decree.

3 C. A consent decree shall remain in force for six
4 months unless the child is discharged sooner by probation
5 services. Prior to the expiration of the six-month period and
6 upon the application of probation services or any other agency
7 supervising the child under a consent decree, the court may
8 extend the decree for an additional six months in the absence
9 of objection to extension by the child. If the child objects
10 to the extension, the court shall hold a hearing and make a
11 determination on the issue of extension.

12 D. If either prior to discharge by probation
13 services or expiration of the consent decree the child
14 allegedly fails to fulfill the terms of the decree, the
15 children's court attorney may file a petition to revoke the
16 consent decree. Proceedings on the petition shall be conducted
17 in the same manner as proceedings on petitions to revoke
18 probation. If the child is found to have violated the terms of
19 the consent decree, the court may:

20 (1) extend the period of the consent decree;

21 or

22 (2) make any other disposition that would have
23 been appropriate in the original proceeding.

24 E. A child who is discharged by probation services
25 or who completes a period under supervision without

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1 reinstatement of the original delinquency petition shall not
2 again be proceeded against in any court for the same offense
3 alleged in the petition or an offense based upon the same
4 conduct and the original petition shall be dismissed with
5 prejudice. Nothing in this subsection precludes a civil suit
6 against the child for damages arising from the child's conduct.

7 F. A judge who pursuant to this section elicits or
8 examines information or material about a child that would be
9 inadmissible in a hearing on the allegations of the petition
10 shall not, over the objection of the child, participate in any
11 subsequent proceedings on the delinquency if:

12 (1) a consent decree is denied and the
13 allegations in the petition remain to be decided in a hearing
14 where the child denies the allegations; or

15 (2) a consent decree is granted but the
16 delinquency petition is subsequently reinstated.

17 G. If a consent decree has been entered pursuant to
18 the filing of a delinquency petition based on Paragraph (2),
19 (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978 for a
20 child who is fifteen years of age or older, a condition of the
21 consent decree agreement may be the denial of the child's
22 driving privileges or the revocation of the child's driver's
23 license for a period of ninety days. For the second or
24 subsequent adjudication, the child's driving privileges may be
25 denied or the child's driver's license revoked for a period of

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1 one year. Within twenty-four hours of the entry by the court
2 of a decree consenting to the revocation or denial of the
3 child's driver's license or driving privileges, the court shall
4 send the decree to the motor vehicle division of the taxation
5 and revenue department. Upon receipt of the decree from the
6 court consenting to the denial or revocation of the child's
7 driving [~~privilege~~] privileges or driver's license, the
8 director of the motor vehicle division of the taxation and
9 revenue department shall revoke or deny the delinquent child's
10 driver's license or driving privileges. Nothing in this
11 section shall prohibit the delinquent child from applying for a
12 limited driving privilege pursuant to Section 66-5-35 NMSA 1978
13 or an ignition interlock license pursuant to the Ignition
14 Interlock Licensing Act, and nothing in this section precludes
15 the delinquent child's participation in an appropriate
16 educational, counseling or rehabilitation program

17 H. The court shall not order more than one consent
18 decree for a child within a two-year period. "

19 Section 7. Section 66-5-5 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 227, as amended) is amended to read:

21 "66-5-5. PERSONS NOT TO BE LICENSED. --The division shall
22 not issue a driver's license under the Motor Vehicle Code to
23 any person:

24 A. who is under the age of eighteen years, except
25 the division may, in its discretion, issue:

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1 (1) an instruction permit to a person fifteen
2 years of age or over who is enrolled in and attending or has
3 completed a driver education course that includes a DWI
4 education and prevention component approved by the bureau or
5 offered by a public school;

6 (2) a provisional license to any person
7 fifteen years and six months of age or older:

8 (a) who has completed a driver education
9 course approved by the bureau or offered by a public school
10 that includes a DWI education and prevention component and has
11 had an instruction permit for at least six months; and

12 (b) who has successfully completed a
13 practice driving component;

14 (3) a driver's license to any person sixteen
15 years and six months of age or older:

16 (a) who has had a provisional license
17 for the twelve-month period immediately preceding the date of
18 the application for the driver's license;

19 (b) who has complied with restrictions
20 on that license;

21 (c) who has not been convicted of a
22 traffic violation that was committed during the ninety days
23 prior to applying for a driver's license; and

24 (d) who has not been adjudicated for an
25 offense involving the use of alcohol or drugs during that

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1 period and who has no pending adjudications alleging an offense
2 involving the use of alcohol or drugs at the time of his
3 application; and

4 (4) to any person thirteen years of age or
5 older who passes an examination prescribed by the division, a
6 license restricted to the operation of a motorcycle, provided:

7 (a) the motor is not in excess of one
8 hundred cubic centimeters displacement;

9 (b) no holder of an initial license may
10 carry any other passenger while driving a motorcycle; and

11 (c) the director approves and certifies
12 motorcycles as not in excess of one hundred cubic centimeters
13 displacement and by ~~[regulation]~~ rule provides for a method of
14 identification of such motorcycles by all law enforcement
15 officers;

16 B. whose license or driving privilege has been
17 suspended or denied, during the period of suspension or denial,
18 or to any person whose license has been revoked, except as
19 provided in Section 66-5-32 NMSA 1978 and the Ignition
20 Interlock Licensing Act;

21 C. who is an habitual drunkard, an habitual user of
22 narcotic drugs or an habitual user of any drug to a degree
23 ~~[which]~~ that renders him incapable of safely driving a motor
24 vehicle;

25 D. who, within any ten-year period, is three times

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1 convicted of driving a motor vehicle while under the influence
2 of intoxicating liquor or narcotic drug regardless of whether
3 the convictions are under the laws or ordinances of this state
4 or any municipality or county of this state or under the laws
5 or ordinances of any other state, the District of Columbia or
6 any governmental subdivision thereof, except as provided in the
7 Ignition Interlock Licensing Act. Ten years after being so
8 convicted for the third time, the person may apply to any
9 district court of this state for restoration of the license,
10 and the court, upon good cause being shown, may order
11 restoration of the license applied for; provided that the
12 person has not been subsequently convicted of driving a motor
13 vehicle while under the influence of intoxicating liquor or
14 [~~drug~~] drugs in the ten-year period prior to his request for
15 restoration of his license. Upon issuance of the order of
16 restoration, a certified copy shall immediately be forwarded to
17 the division, and if the person is otherwise qualified for the
18 license applied for, the three previous convictions shall not
19 prohibit issuance of the license applied for. Should the
20 person be subsequently once convicted of driving a motor
21 vehicle while under the influence of intoxicating liquor or
22 [~~drug~~] drugs, the division shall revoke his license for five
23 years, after which time he may apply for restoration of his
24 license as provided in this subsection;

25 E. who has previously been afflicted with or who is

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1 suffering from any mental disability or disease [~~which~~] that
2 would render him unable to drive a motor vehicle with safety
3 upon the highways and who has not, at the time of application,
4 been restored to health;

5 F. who is required by the Motor Vehicle Code to
6 take an examination, unless he has successfully passed the
7 examination;

8 G. who is required under the laws of this state to
9 deposit proof of financial responsibility and who has not
10 deposited the proof;

11 H. when the director has good cause to believe that
12 the operation of a motor vehicle on the highways by the person
13 would be inimical to public safety or welfare; or

14 I. as a motorcycle driver who is less than eighteen
15 years of age and who has not presented a certificate or other
16 evidence of having successfully completed a motorcycle driver
17 education program licensed or offered in conformance with
18 [~~regulations~~] rules of the bureau."

19 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 251, as amended) is amended to read:

21 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION. --

22 A. The division shall immediately revoke the
23 instruction permit, driver's license or provisional license of
24 [~~any~~] a driver upon receiving a record of the driver's
25 adjudication as a delinquent for or conviction of any of the

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1 following offenses, whether the offense is under any state law
2 or local ordinance, when the conviction or adjudication has
3 become final:

4 (1) manslaughter or negligent homicide
5 resulting from the operation of a motor vehicle;

6 (2) any offense rendering a person a "first
7 offender" as defined in the Motor Vehicle Code, if that person
8 does not attend a driver rehabilitation program pursuant to
9 Subsection E of Section 66-8-102 NMSA 1978;

10 (3) any offense rendering a person a
11 "subsequent offender" as defined in the Motor Vehicle Code;

12 (4) any felony in the commission of which a
13 motor vehicle is used;

14 (5) failure to stop and render aid as required
15 under the laws of this state in the event of a motor vehicle
16 accident resulting in the death or personal injury of another;

17 (6) perjury or the making of a false affidavit
18 or statement under oath to the division under the Motor Vehicle
19 Code or under any other law relating to the ownership or
20 operation of motor vehicles; or

21 (7) conviction or forfeiture of bail not
22 vacated upon three charges of reckless driving committed within
23 a period of twelve months.

24 B. [Any] Except as provided in the Ignition
25 Interlock Licensing Act, a person whose license has been

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1 revoked under this section, except as provided in Subsection C,
2 D or E of this section, shall not be entitled to apply for or
3 receive ~~[any]~~ a new license until the expiration of one year
4 from the date of the last application on which the revoked
5 license was surrendered to and received by the division, if no
6 appeal is filed, or one year from the date that the revocation
7 is final and he has exhausted his rights to an appeal.

8 C. ~~[Any]~~ A person who upon adjudication as a
9 delinquent or conviction is subject to license revocation under
10 this section for an offense pursuant to which he was also
11 subject to license revocation pursuant to Section 66-8-111 NMSA
12 1978 shall have his license revoked for that offense for a
13 combined period of time equal to one year.

14 D. Upon receipt of an order from a court pursuant
15 to ~~[Subsection J of]~~ Section 32A-2-19 NMSA 1978 or Subsection G
16 of Section 32A-2-22 NMSA 1978, the division shall revoke the
17 driver's license or driving privileges for a period of time in
18 accordance with these provisions.

19 E. Upon receipt from a district court of a record
20 of conviction for the offense of shooting at or from a motor
21 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or
22 of a conviction for a conspiracy or an attempt to commit that
23 offense, the division shall revoke the driver's licenses or
24 driving privileges of the convicted person. ~~[Any]~~ A person
25 whose license or privilege has been revoked pursuant to the

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1 provisions of this subsection shall not be entitled to apply
2 for or receive any new license or privilege until the
3 expiration of one year from the date of the last application on
4 which the revoked license was surrendered to and received by
5 the division, if no appeal is filed, or one year from the date
6 that the revocation is final and the person has exhausted his
7 rights to an appeal. "

8 Section 9. Section 66-5-32 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 254, as amended) is amended to read:

10 "66-5-32. PERIOD OF SUSPENSION OR REVOCATION. --

11 A. The division shall not suspend a driver's
12 license or privilege to drive a motor vehicle on the public
13 highways for a period of more than one year except as permitted
14 under Subsection C of this section and Sections 66-5-5 and
15 66-5-39 NMSA 1978.

16 B. ~~[Any]~~ Except as provided in the Ignition
17 Interlock Licensing Act, a person whose license or privilege to
18 drive a motor vehicle on the public highways has been revoked
19 shall not be entitled to have the license or privilege renewed
20 or restored unless the revocation was for a cause that has been
21 removed, except that after the expiration of the period
22 specified in Subsection B of Section 66-5-29 NMSA 1978 from the
23 date on which the revoked license was surrendered to and
24 received by the division, the person may make application for a
25 new license as provided by law.

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1 C. The suspension period for failure to appear or
2 failure to remit the penalty assessment shall, at the
3 discretion of the director, be extended indefinitely subject to
4 the provisions of Subsection B of Section 66-5-30 NMSA 1978. "

5 Section 10. Section 66-5-35 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 257, as amended by Laws 2001, Chapter 47,
7 Section 1 and also by Laws 2001, Chapter 242, Section 1) is
8 amended to read:

9 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
10 REVOCATION-- HEARING-- REVIEW. --

11 A. Upon suspension or revocation of a person's
12 driver's license following conviction or adjudication as a
13 delinquent under any law, ordinance or rule relating to motor
14 vehicles, a person may apply to the department for a license or
15 permit to drive, limited to use allowing him to engage in
16 gainful employment, to attend school or to attend a court-
17 ordered treatment program, except that the person shall not be
18 eligible to apply:

19 (1) for a limited commercial driver's license;
20 (2) for a limited license when the person's
21 driver's license was revoked pursuant to the provisions of the
22 Implied Consent Act, except as provided in Subsection B of this
23 section;

24 (3) for a limited license when the person's
25 license was revoked pursuant to an offense for which the person

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1 is a subsequent offender as defined in the Motor Vehicle Code,
2 except that a person who is convicted a second or third time
3 for driving under the influence of intoxicating liquor or drugs
4 may apply for and shall receive a limited license if he
5 complies with the requirements set forth in Subsections C and D
6 of this section; or

7 (4) for a limited license when the person's
8 driver's license was revoked pursuant to a conviction for
9 committing homicide by vehicle or great bodily injury by
10 vehicle, as provided in Section 66-8-101 NMSA 1978.

11 B. A person whose driver's license is revoked for
12 the first time pursuant to the provisions of Paragraph (1) or
13 (2) of Subsection C of Section 66-8-111 NMSA 1978 or for the
14 second or third time pursuant to the provisions of Paragraph
15 (3) of Subsection C of Section 66-8-111 NMSA 1978 may apply for
16 and shall receive a limited license or permit thirty days after
17 suspension or revocation of his license if the person pays
18 every fee, meets the criteria for limited driving privileges
19 established in rules by the department and provides the
20 department with documentation of the following:

21 (1) that the person is enrolled in a DWI
22 school approved by the traffic safety bureau and an approved
23 alcohol screening program;

24 (2) proof of financial responsibility pursuant
25 to the provisions of the Mandatory Financial Responsibility

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1 Act; and

2 (3) if the person's driver's license is
3 revoked pursuant to the provisions of Paragraph (3) of
4 Subsection C of Section 66-8-111 NMSA 1978, proof that each
5 motor vehicle to be operated by the person, if he receives a
6 limited license, shall be equipped with an ignition interlock
7 device installed and operated pursuant to rules adopted by the
8 traffic safety bureau and:

9 (a) proof of gainful employment or
10 gainful self-employment and that the person needs a limited
11 license to travel to and from his place of employment;

12 (b) proof that the person is enrolled in
13 school and needs a limited license to travel to and from
14 school; or

15 (c) proof that the person is enrolled in
16 a court-ordered treatment program and needs a limited license
17 to travel to and from the treatment program.

18 C. A person who is convicted a second or third time
19 for driving under the influence of intoxicating liquor or
20 drugs may apply for and shall receive a limited license thirty
21 days after suspension or revocation of his license if the
22 person pays every fee, meets the criteria for limited driving
23 privileges established in rule by the department and provides
24 the department with documented proof:

25 (1) of enrollment in a DWI school approved by

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1 the traffic safety bureau and an approved alcohol screening
2 program;

3 (2) of financial responsibility pursuant to
4 the provisions of the Mandatory Financial Responsibility Act;
5 and

6 (3) of gainful employment or gainful self-
7 employment and that the person needs a limited license to
8 travel to and from his place of employment; or

9 (4) of enrollment in school and that the
10 person needs a limited license to travel to and from school; or

11 (5) of enrollment in a court-ordered treatment
12 program and that the person needs a limited license to travel
13 to and from the treatment program.

14 D. In addition to the requirements set forth in
15 Subsection C of this section, a person who is convicted a
16 second or third time for driving under the influence of
17 intoxicating liquor or drugs shall provide the department with
18 his judgment and sentence. The judgment and sentence shall
19 attest that the person will be on probation for the entire
20 period that a limited license will be in effect and that, as a
21 condition of probation, the person shall provide proof that
22 each motor vehicle to be operated by the person is equipped
23 with an ignition interlock device installed and operated
24 pursuant to rules adopted by the traffic safety bureau. The
25 ignition interlock device shall be installed on the appropriate

. 142950. 2

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1 motor vehicle at the person's expense.

2 E. Upon receipt of a fully completed application
3 that complies with statutes and rules for a limited license and
4 payment of the fee specified in this subsection, the department
5 shall issue a limited license or permit to the applicant
6 showing the limitations specified in the approved application.
7 For each limited license or permit to drive, the applicant
8 shall pay to the department a fee of forty-five dollars
9 (\$45.00), which shall be transferred to the state highway and
10 transportation department. All money collected under this
11 subsection shall be used for DWI prevention and education
12 programs for elementary and secondary school students. The
13 state highway and transportation department shall coordinate
14 with the department of health to ensure that there is no
15 program duplication. The limited license or permit to drive
16 may be suspended as provided in Section 66-5-30 NMSA 1978.

17 F. The department, within twenty days of denial of
18 an application for a limited driver's license or permit
19 pursuant to this section, shall afford the applicant a hearing
20 in the county in which the applicant resides, unless the
21 department and the licensee agree that the hearing may be held
22 in some other county. The department may extend the twenty-day
23 period, provided that the extension is in writing and made no
24 later than fifteen days after receipt of an application. Upon
25 hearing, the hearing officer designated by the department may

. 142950. 2

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1 administer oaths and may issue subpoenas for the attendance of
2 witnesses and the production of relevant books and papers. The
3 hearing officer shall make specific findings as to whether the
4 applicant has shown proof of financial responsibility for the
5 future and enrollment in an approved DWI school and an approved
6 alcohol screening program and meets established uniform
7 criteria for limited driving privileges adopted by rule of the
8 department. The hearing officer shall enter an order either
9 approving or denying the applicant's request for a limited
10 license or permit to drive. If any of the specific findings
11 set forth in this subsection are not found by the hearing
12 officer, the applicant's request for a limited license or
13 permit shall not be approved.

14 G. A person adversely affected by an order of the
15 hearing officer may seek review within thirty days in the
16 district court in the county in which he resides. On review,
17 it is for the court to determine only whether the applicant met
18 the requirements in this section for issuance of a limited
19 license or permit to drive.

20 H. Nothing in this section shall prohibit a person
21 whose license has been revoked pursuant to Section 66-8-111
22 NMSA 1978 from applying for an ignition interlock license
23 pursuant to the provisions of the Ignition Interlock Licensing
24 Act. "

25 Section 11. EFFECTIVE DATE. --The effective date of the

. 142950. 2

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1 provisions of this act is July 1, 2003.

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